

Decision **DRAFT DECISION OF COMMISSIONER LYNCH**  
**(Mailed May 23, 2002)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Examine the  
Commission's Future Energy Efficiency Policies,  
Administration and Programs.

Rulemaking 01-08-028  
(Filed August 23, 2001)

**SECOND INTERIM OPINION SELECTING 2002-03  
LOCAL ENERGY EFFICIENCY PROGRAMS****I. Introduction**

In this interim decision, we award \$15,338,979 in local energy efficiency funding for 2002-03. In some cases, we increase the funding awards for certain programs selected in Decision (D.) 02-05-046. In others, we fund programs not reflected in that decision. These programs offer excellent energy efficiency services and assist us in creating a balanced energy efficiency portfolio. The funded programs are as follows:

<b>Program Administrator</b>	<b>Ref. No.</b>	<b>Program Title</b>	<b>Approved Budget<sup>1</sup></b>	<b>IOU Contract Administrator</b>	<b>Remarks</b>
<b>PG&amp;E Service</b>					
California State University Fresno	230ABCD-02	Agriculture Pumping Efficiency Program	\$1,936,174	PG&E	Additional funding <sup>2</sup>
Global Energy Services	278BC-02	Chinese Language Efficiency Outreach	\$345,666	SCE	Additional funding

<sup>1</sup> Excludes IOU administrative fee.

<sup>2</sup> Funding in addition to budgets approved in D.02-05-046.

State & Consumer Services Agency	177-02	Proposal for a Local K-12 Schools Energy Efficiency Program	\$1,936,173	PG&E	Additional funding
Association of Bay Area Governments	105-02	Energy Management Assistance for Local Governments	\$2,851,614	PG&E	New program
City of Berkeley	168-02	Neighborhood Energy Awareness and Education Service	\$488,938	PG&E	New program
<b>Total PG&amp;E</b>			<b>\$7,558,565</b>		
<b>SCE Service Territory</b>					
County of Los Angeles	156-02	The County of Los Angeles Internal Services Division Energy Efficiency Program	\$2,077,711	SCE	Additional funding
Flintridge Consulting	276-02	Energy Surveys: Southern California Mainstreet	\$563,281	SCE	New program
Vacom Technologies	217AB-02	Energy Efficiency Program for Small and Medium Size Food Stores and Refrigerated Storages	\$1,002,744	SDG&E	New program
<b>Total SCE</b>			<b>\$3,643,736</b>		
<b>SDG&amp;E Service Territory</b>					
Vacom Technologies	217AB-02	Energy Efficiency Program for Small and Medium Size Food Stores and Refrigerated Storages	\$612,869	SDG&E	New program
<b>Total SDG&amp;E</b>			<b>\$612,869</b>		
<b>SoCalGas Service Territory</b>					
ADM Associates	119B-02	Upstream High Efficiency Gas Water Heater Program	\$1,337,151	PG&E	Additional funding
CHEERS	234B-02	Building Department and Small Builder Title 24 Standards Training	\$460,653	PG&E	Additional funding
California Urban Water Conservation Council	162ABC-02	Pre-Rinse Spray Head Installation Program for the Food Service Industry	\$583,148	SCG	Additional funding
Energx Controls, Inc.	208-02	Local Small Commercial Energy Efficiency and Market Transformation Program	\$1,142,857	SCG	New program
<b>Total SoCalGas</b>			<b>\$3,523,809</b>		
<b>TOTAL</b>			<b>\$15,338,979</b>		

## **II. Background**

In D.02-05-046, we awarded \$102,030,037 in local program funding for 2002-03.<sup>3</sup> The remaining available funding was \$15,757,911. While the draft decision had approved the full \$125 million in available local energy efficiency funding, we stated in D.02-05-046 that

As to certain programs recommended in the draft decision, we will hold off on making a decision until we have time further to consider them. We have backed those programs out of the funding tables so that all other programs may go forward without delay. We will address the remaining \$15,757,911 million in programs after this decision issues. (D.02-05-046, *mimeo.*, at 38.)

We have determined that the programs awarded funding here offer comparably qualified services to those recommended in the draft decision. The programs not awarded funding here fall into two categories: one program is sponsored by a subsidiary of the Enron Corporation. The other programs are sponsored by out-of-state entities. We discuss each of these categories below.

## **III. Discussion**

### **A. Funded Programs**

The programs we fund offer the following energy efficiency services: energy management services for local governments and school districts, energy efficiency education and outreach, energy management services for the food service industry and small business in Southern California, new construction

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<sup>3</sup> We also set aside \$4,462,052 to cover the maximum amount of administrative costs the large Investor Owned Utilities could receive for administering the third-party program contracts, in addition to \$2,750,000 in “bridge funding” given to the IOUs in D.02-03-056. (See D.02-05-046, *mimeo.*, at 8.)

standards training for building departments and small builders and upstream residential high-efficiency gas water heater incentives. They provide needed energy efficiency services that balance the remaining portfolio of selected programs, and meet the program criteria in D.01-11-066. In some cases, we reinstate funding for programs whose budgets we cut in the initial selection process. This additional funding will allow the affected programs to serve more customers and increase the number of measures installed. We award \$15,338,979 for these programs, and set aside the rest of the available local energy efficiency funding (*i.e.*, \$418,932) to cover the maximum IOU administrative costs that may result from the inclusion of the foregoing programs in the 2002-03 program mix.<sup>4</sup>

Attachment 1 to this decision presents additional information on the new programs selected for each IOU service area. We provide the Energy Division's description of each selected program (including those awarded additional funding), required program modifications, budget and other information in Attachment 3 hereto.<sup>5</sup> Each program approved in this decision shall be bound by the terms and conditions in D.02-05-046, with the exception of certain due dates set forth therein, revisions of which are set forth in Attachment 2 to this decision.

We summarize in Attachment 4 the selected local program mix by delivery structure, geography and targeted rate-class for all the local energy efficiency programs we fund in D.02-05-046 and in this decision.

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<sup>4</sup> See D.02-05-046, *mimeo.*, at 35-36.

<sup>5</sup> The respective program budgets shown in Attachment 3 do not include the IOU administrative fees.

**B. Enron Subsidiary**

We decline to fund the proposal of the Efficiency Services Group, recommended in the draft decision, on the ground that it is offered by a subsidiary of Portland General Electric, which is in turn a subsidiary of the Enron Corporation. We take official notice of the fact that Enron is in bankruptcy and currently is under investigation for activities that contributed to California's recent energy crisis. We believe it is inappropriate to fund this corporate entity under these circumstances. Enron's precarious financial situation raises concerns as to whether the program would fail midstream, hurting California electricity consumers and the Commission's overall energy efficiency efforts. There is too much uncertainty surrounding Enron for us to be able to select its program given the quality of the other programs also seeking funding.

The criteria in D.01-11-066 make room for such disallowances. Our first criterion states that "[t]he most important goal of any Commission energy efficiency program is to create permanent and verifiable energy savings over the life-cycle of the relevant energy efficiency measures." A company faced with the financial and legal risks Enron poses may be unable to create such permanent change. It is not at all clear what the obligations of Portland General Electric will be to help satisfy Enron's debts. Given the financial precariousness of Enron and the likelihood Portland General Electric will be called to account at least in part for Enron's debt, we simply cannot approve of sending additional California ratepayer money to these entities.

**C. Out-of-State Programs**

Certain programs included in the draft decision would provide funding for programs run by companies located out-of-state. We believe such programs offer less promise of satisfying the energy efficiency program criteria developed

in D.01-11-066. Moreover, in light of California's current poor economy, of which we take official notice, we believe the similarly qualified in-state programs we have selected in place of those in the draft decision are more appropriate recipients of California ratepayer funding. The programs not funded are contained in Attachment 5 to this decision.

In our view, the funded programs more closely satisfy the criterion in D.01-11-66 that requires that energy efficiency programs take advantage of synergies or coordination of other existing programs, including those run by other state agencies, private entities, municipal utilities, or the federal government. We believe programs run from within the state are in a better position than out-of-state run programs to synergize with the foregoing entities.

In addition, we believe that in-state programs offer greater promise of meeting the policy preference set forth in D.02-05-046 that programs provide a local presence and leave lasting change or infrastructure at the local level. (*Id.* at 12.) Local entities are in a better position to effect local change.

In addition, we believe we retain discretion to favor California-based programs where, as here, programs are aimed directly at residential and small businesses housed in hard-to-reach communities. Programs with a local presence and the knowledge of local needs are best equipped, we believe, to deliver services that actually address these needs. Indeed, in D.01-11-066, we explained that local programs should utilize local relationships and networks. (*Id.* at 17.) We also believe in-state and community-based programs can more effectively engage in "training/capability-building and outreach efforts in local communities across the state, and "build infrastructure and strengthen institutions in order to expand the capability for energy efficiency delivery." (*Id.*)

Indeed, we encouraged reliance on community-based organizations for program delivery. (*Id.* at 17-18.)

#### **D. Energx Program**

In D.02-05-046, we held back for further consideration funding the draft decision tentatively awarded to Energx Controls, Inc. (Energx) on the ground of concerns raised in the draft decision about an Energx state tax lien. Since submitting its proposal, however, Energx submitted evidence sufficient to establish that it has since cleared the lien, which was based on a minor accounting dispute. Therefore, we fund the Energx proposal.

#### **IV. Conclusion**

We award 2002-03 local energy efficiency funding to the well-qualified programs listed herein. We decline to fund the Enron/Portland General Electric/Efficiency program and programs run by out-of-state entities for the reasons set forth above.

#### **Findings of Fact**

1. The programs funded herein offer comparably qualified services to those recommended in the draft decision.
2. The funded programs offer needed energy efficiency services not covered by the remaining portfolio of programs selected in D.02-05-046.
3. Each funded program meets the program criteria set forth in D.01-11-066.
4. We take official notice of the fact that Enron Corporation is in bankruptcy and currently is under investigation for activities that contributed to California's recent energy crisis.
5. Efficiency Services Group is a subsidiary of Portland General Electric, which is an Enron subsidiary.

6. The sponsors of proposals submitted by the Alliance to Save Energy, EnSave Energy Performance, Inc., the Geothermal Heat Pump Consortium, Portland Energy Conservation, Inc., SBW Consulting, Inc., and SESCO, Inc. are located outside of the state of California.

7. We take official notice of the current poor economy in the State of California.

8. Energen no longer has an outstanding California state tax lien.

### **Conclusions of Law**

1. The financial precariousness of Enron renders the Efficiency Services Group program ineligible for program funding. The program may be unable to meet the first criterion set forth in D.01-11-066: “[t]he most important goal of any Commission energy efficiency program is to create permanent and verifiable energy savings over the life-cycle of the relevant energy efficiency measures.” There is too much uncertainty surrounding Enron for us to be able to select its program given the quality of the other programs also seeking funding.

2. In-state programs more closely satisfy the criterion in D.01-11-66 that require that energy efficiency programs take advantage of synergies or coordination of other existing programs, including those run by other state agencies, private entities, municipal utilities, or the federal government than programs headquartered out-of-state.

3. In-state programs offer greater promise than out-of-state programs of meeting the policy preference set forth in D.02-05-046 that programs provide a local presence and leave lasting change or infrastructure at the local level.

4. In-state and community-based programs can more effectively engage in training/capability-building and outreach efforts in local communities across the



state, and build infrastructure and strengthen institutions in order to expand the capability for energy efficiency delivery than out-of-state programs.

**SECOND INTERIM ORDER****IT IS ORDERED** that:

1. We award the remaining 2002-03 local energy efficiency funding to the following programs:

<b>Program Administrator</b>	<b>Program Title</b>	<b>Approved Budget</b>
<b><i>New Programs:</i></b>		
Association of Bay Area Governments	Energy Management Assistance for Local Governments	\$2,851,614
City of Berkeley	Neighborhood Energy Awareness and Education Service	\$488,938
Flintridge Consulting	Energy Surveys: Southern California Mainstreet	\$563,281
Vacom Technologies	Energy Efficiency Program for Small and Medium Size Food Stores and Refrigerated Storages	\$1,615,613
Energx Controls, Inc.	Local Small Commercial Energy Efficiency and Market Transformation Program	\$1,142,857
<b><i>Additional Funding:</i></b>		
California State University Fresno	Agriculture Pumping Efficiency Program	\$1,936,174
Global Energy Services	Chinese Language Efficiency Outreach	\$345,666
State & Consumer Services Agency	Proposal for a Local K-12 Schools Energy Efficiency Program	\$1,936,173
County of Los Angeles	The County of Los Angeles Internal Services Division Energy Efficiency Program	\$2,077,711
ADM Associates	Upstream High Efficiency Gas Water Heater Program	\$1,337,151
CHEERS	Building Department and Small Builder Title 24 Standards Training	\$460,653
California Urban Water Conservation Council	Pre-Rinse Spray Head Installation Program for the Food Service Industry	\$583,148
<b>TOTAL</b>		<b>\$15,338,979</b>

2. We set aside an additional \$418,932 to cover IOU administrative costs that may result from the inclusion of the foregoing programs.

3. Each selected program shall be bound by the terms and conditions in D.02-05-046, with the exception of certain due dates set forth therein, revisions of which are set forth in Attachment 2 to this decision.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**ATTACHMENT 4**  
**LOCAL PROGRAM PORTFOLIO MIX\***

<b>Local Program Mix by Delivery Structure, Geography and Rate-Class</b>					
<b>Delivery Structure</b>	<b>Incentive/Rebate<sup>1</sup></b>		<b>Information Programs<sup>1</sup></b>		<b>Both<sup>3</sup></b>
	\$61,054,565	(52.02%)	\$26,213,548	(22.33%)	\$30,100,903 (25.65%)
<b>Geography<sup>3</sup></b>	<b>Rural<sup>2</sup></b>		<b>Urban<sup>2</sup></b>		<b>Both<sup>3</sup></b>
	\$23,053,318	(19.64%)	\$29,282,919	(24.95%)	\$65,032,778 (55.41%)
<b>Market Segments</b>	<b>Residential<sup>1</sup></b>		<b>Nonresidential<sup>1</sup></b>		<b>Crosscutting<sup>1</sup></b>
	\$32,805,048	(27.95%)	\$59,003,990	(50.27%)	\$25,559,976 (21.78%)

1. As defined in the Energy Efficiency Policy Manual attached to D.01-11-066.
2. We define rural here as being those areas largely outside of the metropolitan areas of the San Francisco Bay Area, Sacramento, San Diego and the Los Angeles basin.
3. Programs that combine both features.

**(END OF ATTACHMENT 4)**

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\* Includes all local programs approved in D.02-05-046 and in this decision.

**ATTACHMENT 5****LOCAL PROGRAMS NOT FUNDED**

<b>Energy Division Proposal Reference Number</b>	<b>Proposal Sponsor</b>	<b>Program Title</b>	<b>Approved Budget</b>	<b>IOU Service Territory</b>	<b>Contracting IOU</b>
142AB-02	Alliance to Save Energy	Green Schools, Green Communities <i>Program Budget Per IOU Area</i>	\$1,314,286 \$438,095 \$876,190	PGE SCE	SCE
274-02	Efficiency Services Group	Energy and Water Saving Program for Residential Rental Properties in Targeted Local Communities in PGE Service Area	\$3,320,368	PGE	PGE
243ABC-02	EnSave Energy Performance Inc	California Variable Speed Drive Farm Program <i>Program Budget Per IOU Area</i>	\$484,977 \$399,621 \$71,291 \$14,065	PGE SCE SDGE	PGE
130-02	Geothermal Heat Pump Consortium	Proposal to Promote Geoexchange to SCE Customers	\$1,287,531	SCE	SCE
237ABC-02	PECI	Proposal for Delivering Energy Efficiency Services to Local Independent Grocery Sector <i>Program Budget Per IOU Area</i>	\$3,838,485 \$1,830,957 \$1,408,724 \$598,804	PGE SCE SDGE	SDGE
97A-02	SBW Consulting, Inc.	Compressed Air Management Program	\$1,569,524	PGE	PGE
197-02	SESCO, Inc.	The Gas-Only Multi-family Gas Program	\$2,380,952	SCG	SCG
<b>Total</b>			<b>\$14,246,122</b>		

**(END OF ATTACHMENT 5)**